

Remarks

Applicant submits that claims 1-15 and 35-39 are not obvious over Garcia In View Of Magi under 35 USC § 103(a). Claim 1 requires, among other things, a extension member that is movably connected to the tile engagement member. This movement allows the tile engagement member to move relative to the extension member in a manner such that the tile engagement member can be properly aligned with a tile edge during its use. Similarly, and for the same purpose, Garcia discloses a tool comprising a tile engagement member (“cup block 136”) that is able to slide relative to an extension member (“cup slide 122”). However, claim 1 also requires a locking member that is biased from an unlocking position (a position which allows relative movement), toward a locking position (a position which prevents relative movement). As acknowledged in the Office Action, Garcia doesn’t disclose a locking member that is biased from the unlocking position toward the locking position. Office Action November 15, 2007, numbered paragraph 3. Nonetheless, the Office Action suggests that “Magi teaches the use of a locking member (16 and 46) being biased (by a spring 55) from the unlocking position toward the locking position (see Fig. 4) for the purpose of avoiding the entry of foreign object[s] into the assembly.” Office Action November 15, 2007, numbered paragraph 3. The Office Action further states that “it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Garcia et al. by providing the locking member as taught by Magi in order to obtain a device that avoids the entry of waste material produced by the cutting of tile, marble or granite, into the assembly.” Id.

Applicant submits that the locking mechanism of Magi is not suitable for locking the extension member and the tile engagement member of Garcia in relative positions because the tile engagement member of Garcia must be able to slideably move relative to the tile engagement member at some time during its use. The locking mechanism of

Magi is configured to allow components of a hinge joint to be pivotally locked relative to each other in only a limited number of indexed angular positions and is not configured to releasably allow said components to slideably move relative to each other. As such, it would not be obvious, nor even logical, to combine the locking mechanism of Magi with the scribe tool of Garcia since doing so would prevent the extension member and the tile engagement member of Garcia from ever slideably moving relative to each other, thereby preventing the scribing tool of Garcia from serving its function. As such, Applicant respectfully submits that claim 1 is not obvious over Garcia In View Of Magi under 35 USC § 103(a) and requests reconsideration of the rejection based thereon. Likewise, it follows that, because claims 2-15 are dependent upon claim 1, for these same reasons the rejections of claims 2-15 are improper and should be withdrawn.

Independent claim 35 requires, among other things, the claimed apparatus to be configured and adapted such that an external force acting on the apparatus is required to prevent the extension member and the tile engagement member from being in their locked configuration. The scribe tool of Garcia can be put in a condition wherein, absent and external force, the extension member and the tile engagement member are in their unlocked configuration. Although Magi disclose hinge wherein an external force is required to be applied to prevent components from being locked in relative positions, for the reasons discussed above, it would not be obvious, and would in fact be illogical, to combine the locking mechanism Magi with the scribe tool of Garcia. As such, Applicant respectfully submits that claim 35 is not obvious over Garcia In View Of Magi under 35 USC § 103(a) and requests reconsideration of the rejection based thereon. Likewise, it follows that, because claims 36-39 are dependent upon claim 35, for these same reasons the rejections of claims 36-39 are improper and should be withdrawn.

For the record, Applicant also notes that the primary purpose of the claimed locking member is not to avoid the entry of waste material produced by the cutting of tile,

marble or granite, into the assembly (as is suggested in the Office Action). In fact, the claimed scribe tool is preferably used merely to allow a tile to be marked for cutting and is preferably separated from the tile when the tile is being cut (in some cases however, the scribe edge could be used as a guide for a cutting blade). The primary purpose of the Applicant's claimed locking member that is to allow the extension member and the tile engagement member of the scribing tool of claim 1 to be automatically locked in relative position simply by a person releasing a portion of the tool. This greatly increases the usability of the scribing tool of claim 1 as compared to the scribing tool of Garcia.

In view of the foregoing, Applicant respectfully submits that the present application is in condition for allowance and notification of such is requested.

Respectfully submitted,

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